

**New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
Concord Office
February 23, 2010
10-03**

Present: Timothy J. Connors, Chairman
Warren W. Leary Jr., Secretary
Michael J. Gatsas, Member
Lynn M. Presby, Member
Bernard A. Streeter, Member
Anthony B. Urban, Member
Paul M. Kelley, Director
Sudhir K. Naik, Deputy Director
Steve Johnston, Supervisor Gaming Operations
Billie Jean Arseneault, Gaming/Licensing Supervisor
William Dewhurst, Sr. Auditor
Linda Glaser, Auditor
Shawn Graham, Auditor
Charles Saia, Legal Coordinator
Linda Darrow, Administrative Secretary

In Attendance: Rick Newman, Karen Keelan, Averill Cate and others.

The Chairman called the meeting to order at 11:05 a.m. and apologized for the late start.

On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to approve and place on file the Commission minutes dated January 27, 2010.

The Racing & Charitable Gaming statistics for the fiscal period ending February 9, 2010 were reviewed. Director Kelley provided an updated copy of the statistics. The statistics in the packet provided previously were incorrect due to a problem with the database. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place on file.

The Games of Chance warning letters spreadsheets were reviewed. Deputy Director Naik stated that responses to the warnings issued had been received except for one, which was not due until end of business day today. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to accept and place on file.

The Games of Chance State Revenue spreadsheets were provided for review. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place on file.

Legal Coordinator Saia provided a legislative update. Discussion ensued on SB 489. Commissioner Gatsas asked that the record show the optional 1% purse will not recover horse racing in NH. Because the purse monies are overseen by the Lottery Commission, it was determined Director Kelley would request a copy of their fiscal impact statement and would provide copies to the commissioners upon receipt. Director Kelley was asked to research the purse amount at Oaklawn; the purse amounts associated with those states that allow historical racing; and how purses in Pennsylvania were affected when slots were established. The goal of the Commission is to maximize money going to live racing.

Legal Coordinator Saia reviewed the handout on legalized gambling in Pennsylvania. Discussion ensued. The Pennsylvania Gaming Control Board and the Commission have similar duties and responsibilities. Director Kelley was asked to prepare a position paper for the Legislature, to be sent electronically and by messenger mail to the Senate, once approved by the Commission. Mr. Rick Newman offered to provide the email addresses for the legislators.

On a motion by Commissioner Presby, seconded by Commissioner Streeter and unanimously voted to table the request for approval by Rockingham for an Eastern Poker Championship and Salem Boys and Girls Club Tournament due to lack of information.

Commissioner Presby asked that Mr. Johnston, Supervisor of Gaming Operations, report on gaming operations at the next Commission meeting.

Correspondence was reviewed:

- A response was received from Colonel Booth of the State Police in response to Director Kelley's letter to Commissioner Barthelmes requesting clarification on the records checks. Because further clarification is needed, it was decided Director Kelley would request a meeting with Colonel Booth. Commissioner Presby agreed to attend.
- An anonymous complaint letter was received by Mr. Callahan of Rockingham Park and forwarded to Director Kelley. A copy was forwarded to the Attorney General's office due to the threatening tone of the letter. Mr. Johnston, Supervisor of Gaming Operations, has asked the gaming enforcement investigators to look into the matter and report back.
- An anonymous complaint letter was received by Director Kelley regarding a program provider for Rockingham Park, Acumark Printing. Mr. Callahan will investigate and report back at the next Commission meeting.

Under Old Business:

Mr. Harold Houle Hearing

Legal Coordinator Saia reviewed the documentation received from Mr. Harold Houle per the Commission's request as a result of his appeal hearing held on January 27, 2010. On a motion by Commissioner Presby, seconded by Commissioner Urban and based on all evidence received and all testimony heard voted unanimously for the following:

Decision & Order **Appeal of Harold Houle** **Secondary Game Operator Denial**

Findings of Fact

1. On November 3, 2009, Harold Houle (hereinafter "Houle") submitted the following documents to the State of New Hampshire Racing and Charitable Gaming Commission (hereinafter the "Commission"):
 - a. 2010 Secondary Game Operator Application, and;
 - b. Record Information Authorization.
2. In Section 3, Item A, of the Secondary Game Operator Application, Houle represented that he had not been convicted of a felony or class A or B misdemeanors.
3. On November 10, 2009, the Commission received from the NH Department of Safety the following documents:
 - a. NH State Police Criminal History Record for Houle, and;
 - b. Federal Background Investigation Results for Houle.

4. The NH State Police Criminal History Record of Conviction revealed that Houle had, in fact, received a conviction for a Class A Misdemeanor on May 13, 2009, to wit: RSA 263:64 (*Driving After Revocation or Suspension*).
5. By letter dated November 12, 2009, the Commission notified Houle that his Secondary Game Operator Application had been denied based on the Criminal History Record received by the Commission from the NH State Police. As its authority, the Commission cited RSA 287-D:2b VI *Operation of Games of Chance*, citing in part "...no person who has in any jurisdiction, been convicted...of a class B misdemeanor within the past 5 years...shall operate a game of chance licensed under this chapter...". In its letter, the Commission provided Houle with his appellate rights pursuant to RSA 287-D:7 as well as a Commission "Appeal Form".
6. The Commission received the Appeal Form from Houle on January 7, 2010.
7. On January 19, 2010, the Commission mailed a "Hearing Notice" to Houle via U.S. P.S. Certified Mail, Return Receipt Requested, which notified Houle of his Appeal Hearing, (regarding the denial of his Secondary Game Operator License) scheduled for Wednesday, January 27, 2010.
8. On January 21, 2010, the Commission received the U.S.P.S. Return Receipt, evidencing that Houle received the "Hearing Notice" on January 20, 2010.
9. On January 27, 2010, the Commission convened the Appeal Hearing regarding the denial of Houle's Application for a Secondary Game Operator License.
10. Houle provided testimony at the hearing, which, in part, referenced:
 - a. Houle was aware that he may have an attorney represent his interests before the Appeal Hearing; however he desired to proceed without a lawyer.
 - b. Houle was aware that the audio portion of the Appeal Hearing was being "tape recorded".
 - c. Houle acknowledged the 2009 class A misdemeanor conviction referenced above in item number three (3) was duly attributable to him.
 - d. Houle explained that he was basically a "good kid" and even though the conviction resulted in a six (6) month house of correction suspended sentence, he did not realize that he had to state it on his Secondary Game Operator Application.
 - e. Houle explained that he had a Secondary Game Operator License in the past, and he had never experienced any problems as a licensee or employee.
 - f. Upon questioning by the Commissioners regarding possible aliases which appeared on Houle's application and other documentation, Houle explained that it was merely a confusion, initiated by a police officer.
 - g. Houle thanked the Commissioners for their time.

Conclusions of Law

1. Pursuant to RSA 287-D:2-b, VI, a game operator is prohibited from operating a games of chance if that person has been convicted of a felony or class A misdemeanor within the past 10 years or a class B misdemeanor within the past 5 years and that conviction has not been annulled by a court. This prohibition is subject to the provisions in RSA 287-D:8, II.
2. Pursuant to RSA 287-D:8, II, the Commission has the authority to determine eligibility and fitness for licensure.
3. Based on the testimony and information received, the Commission took the matter "Under Advisement". In a letter dated January 27, 2010, the Commission, through its Director, requested the following additional information from Houle, due by February 12, 2010:
 - a. Court Certified Copy of Manchester District Court, Docket # 09-4707, and;
 - b. State Certified Copy of Houle's Department of Motor Vehicles Driving History.
4. Houle complied with the Commission's request and delivered the documents to the Commission.
5. Based on testimony and information received, the Commission rendered its decision on February 23, 2010, at its regularly scheduled Commission Meeting.
6. The Commission concludes that the conviction, reported by the NH State Police for Houle, was duly attributable to Houle, and has not since been annulled.

7. Based on the testimony and information received, the Commission concludes that the issuance of a 2010 license would not be appropriate in this instance.
8. The Commission concludes that each license application is separate and distinct from every other application and a decision on an application is based on the information received regarding that specific application.
9. Based on the testimony given and information received, the Commission concludes, pursuant to RSA 287-D:8, II, that Harold Houle is not fit to be associated with games of chance, and therefore, he is not eligible for a secondary game operator license.

Order

The Commission orders that the denial of the Harold Houle secondary game operator license is upheld.

The Commission orders that Mr. Harold Houle shall not be eligible to reapply for a secondary game operator license, within six (6) months from the date of this Order.

The Commission orders that should Mr. Houle decide to reapply for a secondary game operator license, then he must file, in addition to other required documentation, a certified copy of his birth certificate with the Commission.

So Ordered.

Under New Business:

- ❖ The Governor has requested further cuts to the agency budget. He has asked for a \$27,000 cut for this year and an additional \$70,000 cut for the next fiscal year, to come from general fund expenditures. Discussion ensued.
- ❖ An issue has arisen with GameTech. They are a manufacturer acting as a distributor, which is against the law. A letter was sent to them and Director Kelley will continue to follow up.
- ❖ American Legion Post 22 was allegedly found by the Liquor Commission to be conducting illegal gambling at their facility. If convicted, the post must appear before the Commission for a revocation hearing of their charitable gaming license.

At 12:25 p.m., on a motion by Commissioner Urban, seconded by Commissioner Streeter and by a unanimous roll call vote the Commission voted to adjourn the regular meeting, and go into non-public session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

At 1:00 p.m., on a motion by Commissioner Streeter, seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to come out of the non-public session and to permanently seal the non-public minutes.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

The next Commission meeting is scheduled for Wednesday, March 10, 2010 in Concord beginning at 11:00 a.m.

The Chairman closed the public meeting at 1:05 p.m.

Respectfully Submitted,

Warren W. Leary, Jr.
Secretary